

### **REMARKS**

Claim 1 has been amended to incorporate the recitations of claims 4 and 5, and claims 4 and 5 have been canceled accordingly. Claim 1 has also been amended to resolve an issue raised by the Examiner under 35 U.S.C. 112, second paragraph. Claims 6 and 7 have been amended to change their dependency in view of the cancellation of claims 4 and 5. Claims 9-13 have been added based on disclosure at, e.g., pages 9, 15-17, and 23 in the application.

Entry of the above amendment is respectfully requested.

### **Objection to the Abstract**

On page 2 of the Office Action, in paragraph 1, the Examiner has objected to the abstract because legal phraseology such as "comprising", "comprises" and "selected from the group consisting of" should be avoided, and since it is unclear what the "xylene-soluble portion" is a portion of: a portion of polymer (A), of polymer (B), the mixture of polymers (A) and (B), or a portion of an intermediate product of the composition.

In response, Applicants have amended the abstract to replace the legal phraseology and to expressly set forth that the "xylene-soluble portion" is a xylene-soluble portion of the mixture of polymers (A) and (B). Accordingly, Applicants submit that this objection has been overcome, and withdrawal of the objection is respectfully requested.

### **Rejection under 35 U.S.C. 112, Second Paragraph**

On page 2 of the Office Action, in paragraph 3, claims 1 and 5 are rejected under 35 U.S.C 112, second paragraph, as being indefinite.

### **The Examiner's Position**

Based on the reasons given by the Examiner, the Examiner's position is as follows:

(1) In regard to claim 1, the recitation "the refractive index of the xylene-soluble portion is from 1.480 to 1.495" renders the claim indefinite because it cannot be ascertained what the "xylene-soluble portion" is a portion of.

(2) In regard to claim 5, the recitation "has a second high-density polyethylene layer" renders the claim indefinite because claim 5 does not recite a first high-density polyethylene layer, so it cannot be ascertained whether or not Applicant intends to recite that the film or sheet comprises two separate high-density polyethylene layers.

### **Applicants' Response**

In response, Applicants submit the following comments on each of the issues raised by the Examiner:

(1) With respect to the first issue, Applicants have amended claim 1 to recite that the "xylene-soluble portion" is a xylene-soluble portion of the mixture of polymers (A) and (B).

(2) As to the second issue, Applicants note that the recitations of claim 5 have been incorporated into claim 1, and claim 5 has been canceled.

Thus, Applicants submit that the amended claims satisfy the requirements of 35 U.S.C. 112, second paragraph, and withdrawal of this rejection is respectfully requested.

### **Art Rejection**

On page 3 of the Office Action, in paragraph 5, claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakae et al. (USPN 5,089,323).

Applicants submit that the present invention is not anticipated by (or obvious over) Nakae, and request that the Examiner reconsider and withdraw this rejection in view of the following remarks.

Regarding a container:

The Office Action described that Nakae discloses a container in column 3, lines 64 to 66 thereof. However, Applicants submit that "If it is less than 10  $\mu\text{m}$ , cases are met in which an extremely large area of an oxygen absorbing sheet must be used in order to obtain a desired oxygen absorption capacity. This being the **case**, the oxygen absorbing sheet would stand out prominently from the content, e.g., foods, of packages" described in column 3, lines 63 to 66 of Nakae does not teach a container.

The "case" used in the disclosure of Nakae means "circumstance", "conditions", "situation" or the like. It does not mean a container. Furthermore, although Nakae discloses in column 7 that the oxygen absorbing sheet can be used in a package of processed foods which includes high water content foods and general foods, fruits, vegetables, flowers, machine parts, medicines and the like, it does not disclose that a container can be formed with the oxygen absorbing sheet.

Regarding the refractive index of the xylene-soluble portion:

Applicants submit that Nakae does not disclose or suggest the characteristic of the present invention wherein the refractive index of the xylene-soluble portion of the mixture of polymers (A) and (B) is from 1.480 to 1.495.

While the Examiner indicates that this requirement has not been given patentable weight since it is allegedly directed to a property that does not characterize the claimed final product, Applicants submit that this property does in fact characterize the final claimed product.

In this regard, Applicants submit that one could determine the xylene-soluble portion of the polyolefin resin composition in the final product, and that portion would need to have a refractive index of from 1.480 to 1.495.

Further, even if this recitation characterizes a "portion" of the polyolefin resin composition, and therefore a "portion" of the claimed container, that does not exist in a separate, identifiable form in the claimed final product as argued by the Examiner, Applicants submit that a final product medical container must nevertheless satisfy this requirement to be within the scope of the claims.

Regarding the structure recited in amended claim 1:

It is noted that claim 1 has been amended to incorporate the recitations of claims 4 and 5 to recite that in addition to the at least one resin layer recited in original claim 1, the film or sheet further comprises at least one of a first high-density polyethylene layer, which comprises a high-density polyethylene and is disposed in an inner side of the film or sheet, and a second high-density polyethylene layer, which comprises a high-density polyethylene and is disposed in an outer side of the film or sheet.

Further, it is noted that the Examiner simply indicates that Nakae et al. teach at col. 3, lines 25-49 that the sheet has a high density polyethylene layer that is disposed in the inner side of the container in the instance where the mixture includes high density polyethylene.

Accordingly, it is submitted that Nakae neither teaches nor suggest the multiple layer embodiment of the amended claim 1.

Regarding the effects of the present invention:

Due to the particular characteristics of the present invention, Applicants submit that unexpectedly superior results can be obtained. In this regard, Applicants refer the Examiner to

Comparative Examples 1 to 5 of the present invention, wherein the refractive index of the xylene-soluble portion is not included in the range of 1.480 to 1.495. The refractive index of the xylene-soluble portion of these comparative examples are 1.475 (Composition 4), 1.496 (Composition 5) and 1.479 (Composition 9). In Table 3 of the present specification, excellent effects of Examples 1 to 9 can be achieved regarding heat resistance, impact resistance, light transmittance and blocking resistance. However, Comparative Examples 1 to 5 show poor results. That is, at least one of heat resistance, impact resistance, light transmittance or blocking resistance is poor in each of these comparative examples.

The medical container of the present invention is an excellent container which has high heat resistance capable of enduring sterilization treatment at a high temperature, excellent transparency to enable the check of mingling of a foreign material or visual inspection of the change by blending a medicament, excellent impact resistance sufficiently high to prevent the container from rupturing if dropped or during packaging and transportation, excellent flexibility for facilitating the discharge of contents, and excellent blocking resistance to readily cause separation of a film or a sheet at the production of a medical container and to prevent adherence of the container to an outer packaging bag. Nakae fails to teach or suggest the characteristics of claim 1 of the present application. Therefore, claim 1 is believed to be allowable. All rejected dependent claims depend on claim 1. Those dependent claims are believed to be allowable because claim 1 is believed to be allowable for the reasons mentioned above.

Thus, Applicants submit that the present invention is not anticipated by (or obvious over) Nakae, and withdrawal of this rejection is respectfully requested.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

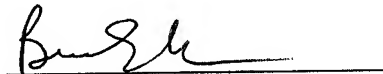
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**23373**

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